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4 LATONYA R. FINLEY,  
5 Plaintiff,  
6 v.  
7 DISCOVER CARD,  
8 Defendant.

9 Case No. 13-cv-01898-JCS  
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**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND PURSUANT  
TO 28 U.S.C. § 1915**

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13 Plaintiff has filed a complaint asserting claims based on an alleged breach by Defendant of  
14 a repayment agreement between the parties. Having previously granted Plaintiff's Application to  
15 Proceed in Forma Pauperis, the Court now considers whether Plaintiff's Complaint must be  
16 dismissed under 28 U.S.C. § 1915(e)(2)(B), which requires dismissal of an in forma pauperis  
17 complaint that is frivolous or malicious or fails to state a claim. *Marks v. Solcum*, 98 F.3d 494,  
18 495 (9th Cir. 1996). Plaintiff has consented to the jurisdiction of the undersigned magistrate judge  
19 pursuant to 28 U.S.C. § 636(c). For the reasons stated below, the Court finds that Plaintiff's  
20 complaint fails to state a claim and therefore dismisses Plaintiff's complaint with leave to amend.

21 Federal Rule of Civil Procedure 8(a)(2) provides that a pleading must contain a "short and  
22 plain statement of the claim showing that the pleader is entitled to relief." The complaint must  
23 give the defendant "fair notice of what the claim is and the grounds upon which it rests." *Bell*  
24 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). To meet this requirement, the complaint  
25 must be supported by factual allegations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "While  
26 legal conclusions can provide the framework of a complaint," neither legal conclusions nor  
27 conclusory statements are themselves sufficient, and such statements are not entitled to a  
28 presumption of truth. *Id.* at 679.

1 Here, Plaintiff has attached a letter from Defendant providing some notice of the specific  
2 facts regarding the contract Plaintiff alleges was breached. However, Plaintiff has included no  
3 specific facts in her complaint as to the payments she alleges were not properly applied to her  
4 account. Instead, she includes only a conclusory allegation that Defendant breached a contract  
5 when it “failed to apply plaintiff payments to a new account set up solely for payments purposes  
6 per contractual agreement.” This allegation is not sufficient to put Defendant on notice of the  
7 conduct that is the subject of Plaintiff’s action. Accordingly, the Court dismisses Plaintiff’s  
8 complaint with leave to amend within 30 days of the date of this order. The Clerk is instructed to  
9 close the file in this case and enter judgment in favor of Defendant if an amended complaint is not  
10 filed by that time.

## **IT IS SO ORDERED.**

Dated: May 15, 2013

**JOSEPH C. SPERO**  
United States Magistrate Judge

United States District Court  
Northern District of California